

**DEPARTMENT OF TRANSPORTATION****Federal Aviation Administration****14 CFR Parts 61, 67, 141, and 142**

[Docket No. FAA-I 998-4518; Amendment Nos. 61-I 05, 67-I 8, 141-I 1 & 142-3]

RIN 2120-AG66

**Licensing and Training of Pilots, Flight Instructors, and Ground Instructors Outside the United States**

**AGENCY:** Federal Aviation Administration, DOT.

**ACTION:** Final rule; request for comments.

**SUMMARY:** This final rule removes language from the Federal Aviation Regulations that restricts the licensing of foreign persons outside of the United States and that restricts the operation of pilot schools and training centers that are located outside of the United States. The restrictive language was originally placed in the regulations because of administrative concerns that are no longer applicable. The restrictive language was identified during harmonization efforts currently underway between the Federal Aviation Administration (FAA) and the European Joint Aviation Authorities (JAA) as an obstruction to harmonization. Failure to harmonize FAA and JAA rules on licensing and training could be detrimental to FAA pilot schools and training centers that seek to train students from the JAA member states. As part of the FAA's commitment to reduce restrictions that are not safety driven and to further harmonize our regulations with our European neighbors, the FAA is removing this restrictive language.

**DATES:** This final rule is effective October 5, 1998. Comments must be submitted on or before November 4, 1998.

**ADDRESSES:** Comments on this final rule should be mailed or delivered, in duplicate to: U.S. Department of Transportation Dockets, Docket No. FAA-98-45 18, 400 Seventh Street, SW, Room Plaza 401, Washington, DC 20590. Comments may also be sent electronically to the following Internet

address: 9-NPRM-CMTS@faa.dot.gov. Comments may be filed and/or examined in Room Plaza 401 between 10 a.m. and 5 p.m. weekdays except Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** Warren Robbins, Certification Branch (AFS-840), General Aviation and Commercial Division, Flight Standards Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone (202) 267-8 196.

**SUPPLEMENTARY INFORMATION:**

**Comments Invited**

This final rule is being adopted without prior notice and prior public comment. The Regulatory Policies and Procedures of the Department of Transportation (DOT) (44 FR 1134; February 26, 1979), however, provide that, to the maximum extent possible, operating administrations for the DOT should provide an opportunity for public comment on regulations issued without prior notice. Accordingly, interested persons are invited to participate in this rulemaking by submitting such written data, views, or arguments, as they may desire. Comments relating to environmental, energy, federalism, or international trade impacts that might result from this amendment also are invited. Comments must include the regulatory docket or amendment number and must be submitted in triplicate to the address above. All comments received, as well as a report summarizing each substantive public contact with FAA personnel on this rulemaking, will be filed in the public docket. The docket is available for public inspection before and after the comment closing date.

The FAA will consider all comments received on or before the closing date for comments. Late filed comments will be considered to the extent practicable. This final rule may be amended in light of the comments received.

Commenters who want the FAA to acknowledge receipt of their comments submitted in response to this final rule must include a preaddressed, stamped postcard with those comments on which the following statement is made:

"Comments to Docket No. FAA-1998-

4518." The postcard will be date-stamped by the FAA and mailed to the commenter.

**Availability of Final Rule**

Any person may obtain a copy of this final rule by submitting a request to: FAA, Office of Rulemaking, Attention: ARM- 1,800 Independence Avenue, SW., Washington, DC 20591; or by telephoning (202) 267-9680. Individuals requesting a copy of this final rule should identify their request with the amendment number or docket number.

An electronic copy of this final rule may be downloaded, by using a modem and suitable communications software, from: the FAA regulations section of the FedWorld electronic bulletin board service (telephone: (703) 32 1-3339); the Government Printing Office's electronic bulletin board service (telephone: (202) 512-1661); or the FAA's Aviation Rulemaking Advisory Committee Bulletin Board service (telephone: (202) 267-5948).

Internet users may reach the FAA's web page at <http://www.faa.gov>, or the Government Printing Office's web page at <http://www.access.gpo.gov/nara>, for access to recently published rulemaking documents.

**Small Entity Inquiries**

The Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA) requires the FAA to report inquiries from small entities concerning information on, and advice about, compliance with statutes and regulations within the FAA's jurisdiction, including interpretation and application of the law to specific sets of facts supplied by a small entity.

If you are a small entity and have a question, contact your local FAA official. If you do not know how to contact your local FAA official, you may contact Charlene Brown, Program Analyst Staff, Office of Rulemaking, ARM-27, Federal Aviation Administration, 800 Independence Avenue, SW, Washington, DC 20591, 1-888-551-1594. Internet users can find additional information on SBREFA in the "Quick Jump" section of the FAA's web page at <http://www.faa.gov> and may send electronic inquiries to the

following Internet address: 9-AWA-SBREFA@faa.dot.gov.

### Background

Over the past several years, the FAA has been involved in harmonization efforts with the JAA and the European Civil Aviation Conference (ECAC). During this time, the JAA has been finalizing the Joint Aviation Regulations (JAR) on Flight Crew Licensing (FCL), which are scheduled to go into effect in July 1999. The development of the JAR FCL has led the FAA and JAA to compare and contrast one another's pilot licensing and training regulations to determine where harmonization would be appropriate. As a result of this harmonization effort, the FAA and JAA have identified certain restrictive language in the FAA regulations and the JAR FCL. The restrictive language, if not removed, provides an obstruction to the harmonization efforts underway between the FAA and the JAA.

### FAA Restrictions

The restrictive language in the FAA Regulations concerns the licensing and training of foreign pilots outside of the U.S. In particular, the FAA regulations do not allow pilot certificates or medical certificates to be issued outside of the U.S. to persons who are not U.S. citizens or resident aliens of the U.S. (14 CFR 61.2 and 67.5, respectively). In addition, foreign students may not take the practical test for a pilot certificate outside of the U.S. (14 CFR 61.2). There are a few exceptions to these requirements, but they generally apply only to support U.S. concerns (e.g., a certificate may be issued when the Administrator finds that the certificate is needed for the operation of a U.S.-registered aircraft).

Also, the FAA regulations do not allow FAA-certificated pilot schools to have a base or other facility located outside the U.S. unless that base or facility is needed for the training of U.S. citizens (14 CFR 141.15). FAA-certificated training centers are allowed to be located outside of the U.S., but they are subject to special rules that limit what they can offer foreign students (14 CFR section 142.19). For example, an FAA-certificated training center located outside of the U.S. may prepare and recommend foreign applicants, whom already hold FAA certificates, only for additional authorizations, endorsements, and ratings. An FAA-certificated training center located outside of the U.S. may prepare and recommend U.S. applicants, whether they already hold an FAA certificate or not, for pilot

certificates, ratings, authorizations, and endorsements.

The FAA placed the above restrictive language into the FAA regulations in 1982 in response to administrative concerns. Specifically, the FAA was concerned with staffing and budgetary resources for FAA activity outside of the U.S. Additionally, the FAA wanted to encourage foreign governments to develop aeronautical codes and administrative capabilities of their own that would permit them to conduct their own certification functions.

Over the past decade and a half, the FAA has expanded its international activity and now has the staffing resources overseas to address certification and oversight concerns. In addition, in 1980 the U.S. Congress passed the International Air Transportation Competition Act of 1979, which directed the FAA to collect fees for airman and repair station certificates issued outside the U.S. Based on this Act, the FAA established fixed fees for the issuance of airman certificates to foreign nationals outside of the U.S. (14 CFR part 187, appendix A). This fee collection provision has enabled the FAA to overcome the budgetary concerns of issuing certificates to foreign airman outside of the U.S. Finally, foreign countries have developed their own aviation programs, including certification of airman.

Therefore, after reviewing the purpose and intent of the restrictive language, the FAA has determined that the administrative concerns that justified placing the geographic limitations into the FAA regulations are no longer applicable.

### JAA Restrictions

The restrictive language in the JAR FCL provides, in pertinent part, that an applicant for a JAA certificate must receive training from a Flying Training Organization (FTO) or Type Rating Training Organization (TRTO) approved by a member state of the JAA. No such approval will be granted unless the FTO or TRTO principal place of business for training and registered office are located in that JAA member state, and the FTO or TRTO is owned directly or through majority ownership by a JAA member state or a national of a JAA member state or both. The JAR FCL does not allow for the crediting of training time received from an unapproved FTO or TRTO.

The JAR FCL also does not allow for the conversion of a non-JAA State license to a JAA license unless an arrangement exists between the JAA and the non-JAA member state. At this time, there is not an arrangement between the FAA and the JAA for conversion of

airman licenses. Such a conversion arrangement is one area that the FAA and JAA are discussing as part of the harmonization efforts. These harmonization efforts, however, have become more difficult as a result of the geographic restrictions in one another's regulations. The JAA has indicated that they may remove the JAR FCL restrictive language once the FAA removes the restrictive language in the FAA regulations.

### Affect on U.S. Schools

If the FAA does not remove the restrictive language in the FAA regulations discussed above, the JAA will not remove the restrictive language in the JAR FCL. Consequently, there could be a potentially detrimental affect on FAA-certificated pilot schools and training centers that seek to train students from the JAA member states or any person interested in obtaining a JAA license. FAA-certificated pilot schools and training centers would not meet the geographic or ownership requirements necessary to gain JAA approval as an FTO or TRTO. As a result, training received at FAA-certificated pilot schools or training centers could not be credited toward a JAA license.

In addition, as discussed above, the JAR FCL provide that a license issued by a non-JAA State may be converted to a JAA license only if an arrangement exists between the JAA and the non-JAA State. At this time, there is not a conversion arrangement between the FAA and the JAA and if the JAR FCL restrictive language is not removed the harmonization efforts underway may not produce such a conversion arrangement. As a result, FAA pilot certificates could not converted to JAA licenses.

Currently, FAA-certificated pilot schools and training centers provide a significant amount of training to individuals from JAA member states. If the JAR FCL goes into effect with the restrictive language in July 1999, significant economic hardship may be endured by many FAA-certificated pilot schools and training centers, since students from JAA member states would no longer seek FAA certificates or training from them.

Accordingly, the FAA is recommending to the JAA that they remove the restrictive language from the JAR FCL before it goes into effect. To support this, the FAA must show good faith by removing licensing and training restrictions in the FAA regulations that are not safety driven. The removal of the restrictive language is urgently needed as the implementation date of the JAR FCL is July 1999: the JAA FCL

Committee will meet in September 1998 to consider amendment of the language in the JAR FCL, which goes before the full JAA Committee for adoption in October 1998.

### Section-by-section Analysis

#### Part 61 Certification: Pilots, Flight Instructors, and Ground Instructors

##### Section 61.2 Certification of Foreign Pilots, Flight Instructors, and Ground Instructors

This section currently provides that an airman certificate may not be issued to a person who is not a citizen of the U.S. or a resident alien of the U.S. unless that person passes the appropriate practical test within the US. There are five exceptions to this restriction for specific needs; that is, the certificate must be needed for the operation of U.S.-registered aircraft. This section also provides that FAA-certificated training centers located outside the U.S. may prepare and recommend only U.S. citizens for airman certificates and may only issue certificates to U.S. citizens.

This section was originally established in 1982 (47 FR 35690; August 16, 1982) in response to "the continuous expansion in worldwide demand for FAA certification services" and the "undue burden [the demand was placing] on FAA budgetary and manpower resources." These administrative concerns, and the potential fear that "[o]verly free exportation of U.S. certificates could deter the development of competent, indigenous certification programs," convinced the FAA to restrict the certification of foreign nationals outside of the U.S. The FAA found support for this decision in 49 U.S.C. section 44703(d), which gives the Administrator of the FAA the discretion to restrict or prohibit the issuance of airman certificates to aliens. In 1996, the FAA implemented the new regulations concerning the certification and operating rules for FAA-certificated training centers (61 FR 34508; July 2, 1996). As part of that rule, section 61.2 was amended to provide that FAA-certificated training centers located outside the U.S. may prepare and recommend only U.S. citizens for airman certificates and may issue certificates only to U.S. citizens. That amendment carried forward the policy of the FAA not to issue certificates to foreign nationals outside the U.S., and did not consider whether this policy was still appropriate.

The FAA/JAA harmonization effort over the past several years has identified

this section as one of the obstructions to the harmonization efforts.

As noted in the general discussion above, the FAA has determined that the original concerns behind promulgating this section are no longer applicable. The FAA has put in place the appropriate resources to handle FAA certification services outside the United States, and the agency is no longer concerned about creating a disincentive for foreign airman certification programs. Accordingly, the FAA is removing this section in its entirety and will be reserving this section for future needs.

#### Part 67 Medical Standards and Certification

##### Section 67.5 Certification of Foreign Airmen

This section provides that a person who is neither a citizen of the U.S., nor a resident alien of the U.S., may not be issued an FAA medical certificate outside the U.S. unless the Administrator finds that the certificate is needed for the operation of a U.S.-registered aircraft.

This section was established at the same time as 14 CFR 61.2, discussed above, in 1982 (47 FR 35690). As stated above, that rule was adopted in response to administrative concerns and to encourage foreign governments in the development of competent, indigenous airman certification programs. As these concerns are no longer applicable, and to encourage harmonization with our European neighbors where possible, the FAA is removing airman licensing requirements that are not safety driven. As a result, the FAA is removing and reserving this section in its entirety.

#### Part 141 Pilot Schools

##### Section 141.15 Location of Facilities

This section provides that FAA-certificated pilot schools or provisional pilot schools may not have a base or facility located outside of the U.S. unless the Administrator finds the location of that base or facility is needed for the training of students who are U.S. citizens.

This section was established as part of an overall revision to the standards for the certification of FAA-certificated pilot schools in 1974 (39 FR 20146; June 6, 1974). In the preamble to that rule, the FAA stated that the restriction on the location of FAA-certificated pilot schools outside the U.S. reflected a long-standing FAA policy that merely was being stated in the regulation. The FAA also stated that "the purpose of certificated pilot schools is to provide pilot training for citizens of the U.S."

As previously discussed, this long-standing FAA policy restricting the training and certification of foreign nationals outside of the U.S. was based mostly on administrative concerns that are no longer applicable. In addition, as FAA-certificated pilot schools have been, and currently are, providing training to a significant number of foreign nationals within the U.S., the purpose of FAA-certificated pilot schools has expanded to train both U.S. citizens and foreign nationals. For many FAA-certificated pilot schools the training of foreign students provides a major source of income.

The JAA and the ECAC have determined that this section is not only a roadblock to harmonization efforts but has encouraged them to place similar geographic restrictions in the JAR FCL. As discussed earlier in the background section of this preamble, if the JAA maintains the restrictive language in the JAR FCL, foreign nationals of JAA member states will no longer seek training from FAA-certificated schools as that training would not longer be recognized by the JAA. Because the FAA has determined that this geographic limitation is no longer necessary and is an obstruction to harmonization as indicated by the JAA and the ECAC, the FAA is removing and reserving this section in its entirety.

#### Part 142 Training Centers

##### Section 142.15 Facilities

This section primarily addresses the physical characteristics of the facilities that a training center is required to provide. The last paragraph of this section (14 CFR 142.15(e)), however, provides that a training center certificate may be issued to an applicant having a business office or training center located outside of the U.S. This permissive language is unnecessary since without this provision, it would be clear that there are no geographic restrictions in part 142 for FAA-certificated training centers. The FAA is removing it to avoid any possible confusion.

##### Section 142.17 Satellite Training Centers

This section provides the requirements that must be met for a training center to conduct training at a satellite training center located in the U.S. This section was limited to satellite training centers located within the United States because the FAA provided special rules for training centers located outside the United States under 14 CFR section 142.19.

As discussed below, the FAA is removing section 142.19 in its entirety.

As there will no longer be special rules for FAA-certificated training centers located outside of the United States, the FAA is removing the limitation in this section that references only satellite training centers located within the United States. FAA-certificated training centers, whether located within or outside of the United States, that want to operate satellite training centers must meet the requirements under this section.

#### **Section 142.19 Foreign Training Centers: Special Rules**

This section currently provides that a training center located outside of the U.S. is subject to special rules that limit what training they can provide to foreign students. As already discussed above, an FAA-certificated training center located outside of the United States may only prepare and recommend foreign applicants, whom already hold FAA certificates, for additional authorizations, endorsements, and ratings. An FAA-certificated training center located outside of the U.S. may prepare and recommend U.S. applicants, whether they already hold an FAA certificate or not, for pilot certificates, ratings, authorizations, and endorsements.

The FAA placed this restrictive language into this section for the same reason as that for section 6 1.2. As discussed above, section 6 1.2 was established in response to administrative and potential "over-dominance" concerns that are no longer applicable. Section 142.19 was identified as a possible obstruction to harmonization. For the same reason the FAA is removing section 6 1.2, the FAA is removing and reserving this section in its entirety.

#### **Good Cause for Immediate Adoption**

Sections 553(b) (3) (B) and 553(d) (3) of the Administrative Procedures Act (APA) (5 U.S.C. 553(b) (3) (B) and 553(d) (3)) authorize agencies to dispense with certain notice procedures for rules when they find "good cause" to do so. Under section 553(b) (3)(B), the requirements of notice and opportunity for comment do not apply when the agency for good cause finds that those procedures are "impracticable, unnecessary, or contrary to the public interest." Section 553(d) (3) allows an agency, upon finding good cause, to make a rule effective immediately, thereby avoiding the 30-day delayed effective date requirement in section 553.

The FAA finds that notice and public comment to this final rule are impracticable, unnecessary, and

contrary to the public interest. The provisions in this final rule remove restrictive language affecting the licensing and training of foreign pilots outside of the U.S. The removal of the restrictive language will not adversely affect the licensing and training of U.S. pilots either within or outside of the U.S. In addition, as discussed above, the removal of the restrictive language will not have a safety impact, because the language was adopted to meet administrative concerns that are no longer applicable. As a result, the FAA has determined that notice and public comment are unnecessary because the FAA believes that the public will not be interested in this rulemaking.

The FAA has determined that there is a need to remove the restrictive language immediately, to provide an inducement for the JAA to consider removing its restrictions on licensing and training. Without this reciprocal JAA action, there could be economic losses the FAA-certificated pilot schools and training centers that seek to continue to train foreign students from the JAA member states, both inside and outside of the U.S. As discussed earlier, the JAR FCL restrictive language will not allow an individual to convert an FAA pilot license, absent an arrangement between the JAA and the FAA, or to receive credit for flight training unless it is received from an JAA-approved FTO or TRTO. Currently, there is no arrangement between the FAA and the JAA for conversion of certificates and FAA-certificated pilot schools and training centers do not meet the requirements for JAA approval.

The JAA has indicated that they may remove the JAR FCL restrictive language if the FAA removes the restrictive language in the FAA regulations. As discussed earlier, the JAA will be making final decisions regarding any amendments to the language of the JAR FCL in the very near future. Therefore while notice and comment on this amendment are unnecessary, they are also impracticable.

#### **Regulatory Evaluation**

Executive Order 12866, "Regulatory Planning and Review," dated September 30, 1993, directs the Federal agencies to promulgate new regulations or modify existing regulations only if benefits to society for each regulatory change outweigh potential costs. The order also requires the preparation of an economic analysis of all "significant regulatory actions" except those responding to emergency situations or other narrowly defined exigencies.

The FAA has determined that this final rule is not significant under

Executive Order 12866 or the Regulatory Policies and Procedures of the Department of Transportation (DOT) (44 FR 11034; February 26, 1979). The Regulatory Policies and Procedures of the DOT require, for non-significant rulemakings, the preparation of a regulatory evaluation that analyzes the economic consequences of the regulatory action. This section contains the full regulatory evaluation prepared by the FAA that provides information on the economic consequences of this regulatory action. In addition to the regulatory evaluation, this section also contains a regulatory flexibility determination required by the 1980 Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) and an international trade impact assessment. Accordingly, the FAA makes the following economic evaluation of this final rule.

This final rule merely removes language from the Federal Aviation Regulations that restricts the licensing of foreign persons outside of the U.S. and that restricts the operation of FAA-certificated pilot schools and training centers that are located outside of the U.S. The restrictive language was originally placed in the regulations because of administrative concerns that are no longer applicable. The restrictive language was identified during harmonization efforts currently underway between the FAA and the JAA as an obstruction to harmonization and as potentially detrimental to FAA-certificated pilot schools and training centers that seek to train students from the JAA member states. As part of the FAA's commitment to reduce restrictions that are not safety driven and to further harmonize our regulations with our European neighbors, the FAA is removing the above restrictive language.

#### **Cost-benefit Analysis**

This final rule does not change the training or certification requirements for obtaining FAA certificates, it only removes geographic limitations on where the training and certification of foreign nationals may be given. This final rule does not affect the training and certification of U.S. citizens either within or outside of the United States. As a result, this final rule does not, in economic terms, alter the process of training and certification for pilots, flight instructors, and ground instructors. Accordingly, the FAA has determined that there are no economic costs associated with this final rule.

An expected benefit of the proposed rule is continuation of existing international trade with respect to the provision of pilot training by U.S.

companies. As discussed in the background section of this preamble, the FAA is concerned about the JAR FCL language that would not allow for the crediting of training time received from unapproved FTOs or TRTOs, namely FAA-certificated pilot schools or training centers. FAA-certificated pilot schools and training centers currently provide training to a significant number of individuals from JAA member states. If the JAR FCL goes into effect in July 1999, significant economic hardship may be endured by many FAA-certificated pilot schools and training centers as students from JAA member states would no longer seek training from them. Further, foreign students that come to the U.S. for flight training provide indirect benefits; they inject money above and beyond tuition costs into the U.S. economy. The FAA is recommending to the JAA that they remove the restrictive language from the JAR FCL. To support this, the FAA must show good faith by removing licensing and training restrictions in the FAA regulations that are not safety driven. Therefore, the FAA has determined that the failure to implement this final rule will result indirectly in economic losses to FAA-certificated pilot schools and training centers and the U.S. economy.

#### **Regulatory Flexibility Determination**

The Regulatory Flexibility Act of 1980 establishes "as a principle of regulatory issuance that agencies shall endeavor, consistent with the objective of the rule and of applicable statutes, to fit regulatory and informational requirements to the scale of the business, organizations, and governmental jurisdictions subject to regulation." To achieve that principle, the Act requires agencies to solicit and consider flexible regulatory proposals and to explain the rationale for their actions. The Act covers a wide range of small entities, including small businesses, not-for-profit organizations and small government jurisdictions.

Agencies must perform a review to determine whether a proposed or final rule will have a significant economic impact on a substantial number of small entities. If the determination is that it will, the agency must prepare a regulatory flexibility analysis (RFA) as described in the Act.

However, if an agency determines that a proposed or final rule is not expected to have a significant economic impact on a substantial number of small entities, section 605(b) of the 1980 Act provides that the head of the agency may so certify and an RFA is not required. The certification must include a statement providing the factual basis

for this determination, and the reasoning should be clear.

The FAA conducted the required review of this final rule and determined that it will not have a significant economic impact, positive or negative, on a substantial number of small entities. This final rule, while it does affect FAA-certificated pilot schools and training centers, does not impose any cost on them. This final rule merely removes geographic limitations on FAA-certificated pilot schools and training centers for the training and certification of foreign nationals outside of the United States. Accordingly, pursuant to the Regulatory Flexibility Act, 5 U.S.C. 605 (b), the FAA certifies that this final rule will not have a significant impact on a substantial number of small entities. The FAA solicits comments from the public regarding this determination.

#### **International Trade Impact Analysis**

The Office of Management and Budget (OMB) requires Federal agencies to determine whether any rule or regulation will have an impact on international trade. The FAA has determined that this final rule will affect the operations of businesses involved in the sale of aviation services, specifically, FAA-certificated pilot schools and training centers. It affects FAA-certificated pilot schools and training centers by removing restrictive language that placed geographic limitations on where they could be located and on what training and certification they could provide to foreign nationals outside of the U.S. The FAA has determined that this final rule promotes international trade. While the FAA believes that this final rule will promote international trade, the more tangible benefit of this final rule will be the enhancement of harmonization efforts currently underway between the FAA and the JAA.

#### **Federalism Implications**

This final rule will not have a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 126 12, it is determined that this final rule will not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

#### **Paperwork Reduction Act**

In accordance with the Paperwork Reduction Act of 1995 (Pub. L. 104-13 (May 22, 1995)), there are no

requirements for information collection associated with this final rule.

#### **Unfunded Mandates Reform Act Assessment**

In accordance with the Unfunded Mandates Reform Act of 1995 Pub. L. 104-4 (March 22, 1995)), there are no Federal mandates in this final rule that meet the required cost threshold.

#### **List of Subjects**

##### **14 CFR Part 61**

Airmen, Certification, Flight instructors, Foreign airmen, Ground instructors, Pilots, Students, Training.

##### **14 CFR Part 67**

Airmen, Certification, Foreign airmen, Medical certification.

##### **14 CFR Part 141**

Airmen, Certification, Educational facilities, Flight instructors, Foreign students, Ground instructors, Pilots, Schools, Students, Training.

##### **14 CFR Part 142**

Airmen, Certification, Educational facilities, Foreign students, Instructors, Pilots, Schools, Students, Training.

#### **The Amendments**

In consideration of the foregoing the Federal Aviation Administration amends Chapter I of Title 14 Code of Federal Regulations as follows:

#### **PART 61—CERTIFICATION: PILOTS, FLIGHT INSTRUCTORS, AND GROUND INSTRUCTORS**

1. The authority citation for part 61 continues to read as follows:

**Authority:** 49 U.S.C. 106(g), 40113, 44701-44703, 44709-44711, 45102-45103, 45301-45302.

##### **§ 61.2 [Removed]**

2. Remove § 61.2.

#### **PART 67—MEDICAL STANDARDS AND CERTIFICATION**

3. The authority citation for part 67 continues to read as follows:

**Authority:** 49 U.S.C. 106(g), 40113, 44701-44703, 44707, 44709-44711, 45102-45103, 45301-45303.

##### **§ 67.5. [Removed]**

4. Remove § 67.5

#### **PART 141—PILOT SCHOOLS**

5. The authority citation for part 141 continues to read as follows:

**Authority:** 49 U.S.C. 106(g), 40113, 44701-44703, 44707, 44709-44711, 45102-45103, 45301-45302.

**§ 141.15 [Removed]**

6. Remove § 141.15

**PART 142—TRAINING CENTERS**

7. The authority citation for part 142 continues to read as follows:

**Authority:** 49 U.S.C. 106(g), 40113, 40119, 44101, 44701–44703, 44705, 44707, 44709–44711, 45102–45103, 45301–45302.

**§ 142.15 [Amended]**

8. In § 142.15, remove paragraph (e).

9. Section 142.17 is amended by revising paragraph (a) introductory text to read as follows:

**§ 142.17 Satellite training centers.**

(a) The holder of a training center certificate may conduct training in accordance with an approved training program at a satellite training center if-

\* \* \* \* \*

**§ 142.19 [Removed]**

10. Remove § 142.19.

Issued in Washington, DC, on September 30, 1998.

**Jane F. Garvey,**

Administrator.

[FR Doc. 98-26602 Filed 10-2-98; 8:45 am]

BILLING CODE 4910-13-M

[4910-13]

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Parts 61, 67, 141, and 142  
FAA-1998-4518; Amdt. No. 61-105, 67-18, 141-11 & 142-3

[Docket No. ↑ ; Amendment No. ↓ ] .EP 9/30/98

RIN 2120-AG66

Licensing and Training of Pilots, Flight Instructors, and  
Ground Instructors Outside the United States

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule; request for comments.

**SUMMARY:** This final rule removes language from the Federal Aviation Regulations that restricts the licensing of foreign persons outside of the United States and that restricts the operation of pilot schools and training centers that are located outside of the United States. The restrictive language was originally placed in the regulations because of administrative concerns that are no longer applicable. The restrictive language was identified during harmonization efforts currently underway between the Federal Aviation Administration (FAA) and the European Joint Aviation Authorities (JAA) as an obstruction to harmonization. Failure to harmonize FAA and JAA rules on licensing and training could be detrimental to FAA pilot schools and training centers that seek to train students from the JAA member states. As part of the FAA's commitment to reduce

b. 10/5/98  
Part III  
Comment Close  
Date: 11/4/98

restrictions that are not safety driven and to further harmonize our regulations with our European neighbors, the FAA is removing this restrictive language.

**DATES:** This final rule is effective [insert the date of publication in the Federal Register]. Comments must be submitted on or before [insert 30 days after the date of publication in the Federal Register].

**ADDRESSES:** Comments on this final rule should be mailed or delivered, in duplicate to: U.S. Department of Transportation Dockets, Docket No. FAA-98-4518 , 400 Seventh Street, SW, Room Plaza 401, Washington, DC 20590. Comments may also be sent electronically to the following Internet address: 9-NPRM-CMTS@faa.dot.gov. Comments may be filed and/or examined in Room Plaza 401 between 10 a.m. and 5 p.m. weekdays except Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** Warren Robbins, Certification Branch (AFS-840), General Aviation and Commercial Division, Flight Standards Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone (202) 267-8196.

**SUPPLEMENTARY INFORMATION:**

**Comments Invited**

This final rule is being adopted without prior notice and prior public comment. The Regulatory Policies and Procedures of the Department of Transportation (DOT) (44 FR



1134; February 26, 1979), however, provide that, to the maximum extent possible, operating administrations for the DOT should provide an opportunity for public comment on regulations issued without prior notice. Accordingly, interested persons are invited to participate in this rulemaking by submitting such written data, views, or arguments, as they may desire. Comments relating to environmental, energy, federalism, or international trade impacts that might result from this amendment also are invited. Comments must include the regulatory docket or amendment number and must be submitted in triplicate to the address above. All comments received, as well as a report summarizing each substantive public contact with FAA personnel on this rulemaking, will be filed in the public docket. The docket is available for public inspection before and after the comment closing date.

The FAA will consider all comments received on or before the closing date for comments. Late filed comments will be considered to the extent practicable. This final rule may be amended in light of the comments received.

Commenters who want the FAA to acknowledge receipt of their comments submitted in response to this final rule must include a preaddressed, stamped postcard with those comments on which the following statement is made: "Comments to

2P 9/30/98

FAA-1998-4518 v  
Docket No. .” The postcard will be date-stamped by the  
FAA and mailed to the commenter.

#### **Availability of Final Rule**

Any person may obtain a copy of this final rule by submitting a request to: FAA, Office of Rulemaking, Attention: ARM-1, 800 Independence Avenue, SW., Washington, DC 20591; or by telephoning (202) 267-9680. Individuals requesting a copy of this final rule should identify their request with the amendment number or docket number.

An electronic copy of this final rule may be downloaded, by using a modem and suitable communications software, from: the FAA regulations section of the **FedWorld** electronic bulletin board service (telephone: (703) 321-3339) ; the Government Printing Office's **electronic** bulletin board service (telephone: (202) 512-1661); or the FAA's Aviation Rulemaking Advisory Committee Bulletin Board service (telephone: (202) 267-5948).

Internet users may reach the FAA's web page at <http://www.faa.gov>, or the Government Printing Office's web page at <http://www.access.gpo.gov/nara>, for access to recently published rulemaking documents.

#### **Small Entity Inquiries**

The Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA) requires the FAA to report inquiries from small entities concerning information on, and advice about,

compliance with statutes and regulations within the FAA's jurisdiction, including interpretation and application of the law to specific sets of facts supplied by a small entity.

If you are a small entity and have a question, contact your local FAA official. If you do not know how to contact your local FAA official, you may contact Charlene Brown, Program Analyst Staff, Office of Rulemaking, ARM-27, Federal Aviation Administration, 800 Independence Avenue, SW, Washington, DC 20591, 1-888-551-1594. Internet users can find additional information on SBREFA in the "Quick Jump" section of the FAA's web page at <http://www.faa.gov> and may send electronic inquiries to the following Internet address: 9-AWA-SBREFA@faa.dot.gov.

### **Background**

Over the past several years, the FAA has been involved in harmonization efforts with the JAA and the European Civil Aviation Conference (ECAC). During this time, the JAA has been finalizing the Joint Aviation Regulations (JAR) on Flight Crew Licensing (FCL), which are scheduled to go into effect in July 1999. The development of the JAR FCL has led the FAA and JAA to compare and contrast one another's pilot licensing and training regulations to determine where harmonization would be appropriate. As a result of this harmonization effort, the FAA and JAA have identified

certain restrictive language in the FAA regulations and the JAR FCL. The restrictive language, if not removed, provides an obstruction to the harmonization efforts underway between the FAA and the JAA.

#### **FAA Restrictions**

The restrictive language in the FAA regulations concerns the licensing and training of foreign pilots outside of the U.S. In particular, the FAA regulations do not allow pilot certificates or medical certificates to be issued outside of the U.S. to persons who are not U.S. citizens or resident aliens of the U.S. (14 CFR sections 61.2 and 67.5, respectively). In addition, foreign students may not take the practical test for a pilot certificate outside of the U.S. (14 CFR section 61.2). There are a few exceptions to these requirements, but they generally apply only to support U.S. concerns (e.g., a certificate may be issued when the Administrator finds that the certificate is needed for the operation of a U.S.-registered aircraft).

Also, the FAA regulations do not allow FAA-certificated pilot schools to have a base or other facility located outside the U.S. unless that base or facility is needed for the training of U.S. citizens (14 CFR section 141.15). FAA-certificated training centers are allowed to be located outside of the U.S., but they are subject to special rules that limit what they can offer foreign students (14 CFR

section 142.19). For example, an FAA-certificated training center located outside of the U.S. may prepare and recommend foreign applicants, whom already hold FAA certificates, only for additional authorizations, endorsements, and ratings. An FAA-certificated training center located outside of the U.S. may prepare and recommend U.S. applicants, whether they already hold an FAA certificate or not, for pilot certificates, ratings, authorizations, and endorsements.

The FAA placed the above restrictive language into the FAA regulations in 1982 in response to administrative concerns. Specifically, the FAA was concerned with staffing and budgetary resources for FAA activity outside of the U.S. Additionally, the FAA wanted to encourage foreign governments to develop aeronautical codes and administrative capabilities of their own that would permit them to conduct their own certification functions.

Over the past decade and a half, the FAA has expanded its international activity and now has the staffing resources overseas to address certification and oversight concerns. In addition, in 1980 the U.S. Congress passed the International Air Transportation Competition Act of 1979, which directed the FAA to collect fees for airman and repair station certificates issued outside the U.S. Based on this Act, the FAA established fixed fees for the issuance of airman certificates to foreign nationals outside of the

U.S.(14 CFR part 187, appendix A). This fee collection provision has enabled the FAA to overcome the budgetary concerns of issuing certificates to foreign airman outside of the U.S. Finally, foreign countries have developed their own aviation programs, including certification of airman.

Therefore, after reviewing the purpose and intent of the restrictive language, the FAA has determined that the administrative concerns that justified placing the geographic limitations into the FAA regulations are no longer applicable.

#### **JAA Restrictions**

The restrictive language in the JAR FCL provides, in pertinent part, that an applicant for a JAA certificate must receive training from a Flying Training Organization (FTO) or Type Rating Training Organization (TRTO) approved by a member state of the JAA. **No** such approval will be granted unless the FTO or TRTO principal place of business for training and registered office are located in that JAA member state, and the FTO or TRTO is owned directly or through majority ownership by a JAA member state or a national of a **JAA** member state or both. The JAR FCL does not allow for the crediting of training time received from an unapproved FTO or TRTO.

The JAR FCL also does not allow for the conversion of a non-JAA State license to a JAA license unless an arrangement

exists between the JAA and the non-JAA member state. At this time, there is not an arrangement between the FAA and the JAA for conversion of airman licenses. Such a conversion arrangement is one area that the FAA and JAA are discussing as part of the harmonization efforts. These harmonization efforts, however, have become more difficult as a result of the geographic restrictions in one another's regulations. The JAA has indicated that they may remove the JAR FCL restrictive language once the FAA removes the restrictive language in the FAA regulations.

#### **Affect on U.S. Schools**

If the FAA does not remove the restrictive language in the FAA regulations discussed above, the JAA will not remove the restrictive language in the JAR FCL. Consequently, there could be a potentially detrimental affect on FAA-certificated pilot schools and training centers that seek to train students from the JAA member states or any person interested in obtaining a JAA license. FAA-certificated pilot schools and training centers would not meet the geographic or ownership requirements necessary to gain JAA approval as an FTO or TRTO. As a result, training received at FAA-certificated pilot schools or training centers could not be credited towards a JAA license.

In addition, as discussed above, the JAR FCL provide

that a license issued by a non-JAA State may be converted to a JAA license only if an arrangement exists between the JAA and the non-JAA State. At this time, there is not a conversion arrangement between the FAA and the JAA and if the JAR FCL restrictive language is not removed the harmonization efforts underway may not produce such a conversion arrangement: As a result, FAA pilot certificates could not be converted to JAA-licenses.

Currently, FAA-certificated pilot schools and training centers provide a significant amount of training to individuals from JAA member states. If the JAR FCL goes into effect with the restrictive language in July 1999, significant economic hardship may be endured by many FAA-certificated pilot schools and training centers, since students from JAA member states would no longer seek FAA certificates or training from them.

Accordingly, the FAA is recommending to the JAA that they remove the restrictive language from the JAR FCL before it goes into effect. To support this, the FAA must show good faith by removing licensing and training restrictions in the FAA regulations that are not safety driven. The removal of the restrictive language is urgently needed as the implementation date of the JAR FCL is July 1999; the JAA FCL Committee will meet in September 1998 to consider



amendment of the language in the JAR FCL, which goes before the full JAA Committee for adoption in October 1998.

#### **Section-by-section Analysis**

#### **Part 61 Certification: Pilots, Flight Instructors, and Ground Instructors**

Section 61.2 *Certification of foreign pilots, flight instructors, and ground instructors.*

This section currently provides that an airman certificate may not be issued to a person who is not a citizen of the U.S. or a resident alien of the U.S. unless that person passes the appropriate practical test within the U.S. There are five exceptions to this restriction for specific needs; that is, the certificate must be needed for the operation of U.S.-registered aircraft. This section also provides that FAA-certificated training centers located outside the U.S. may prepare and recommend only U.S. citizens for airman certificates and may only issue certificates to U.S. citizens.

This section was originally established in 1982 (47 FR 35690; August 16, 1982) in response to "the continuous expansion in worldwide demand for FAA certification services" and the "undue burden [that demand was placing] on FAA budgetary and manpower resources." These administrative concerns, and the potential fear that "[o]verly free exportation of U.S. certificates could deter the development

of competent, indigenous certification programs," convinced the FAA to restrict the certification of foreign nationals outside of the U.S. The FAA found support for this decision in 49 U.S.C. section 44703(d), which gives the Administrator of the FAA the discretion to restrict or prohibit the issuance of airman certificates to aliens. In 1996, the FAA implemented the new regulations concerning the certification and operating rules for FAA-certificated training centers (61 FR 34508; July 2, 1996). As part of that rule, section 61.2 was amended to provide that FAA-certificated training centers located outside the U.S. may prepare and recommend only U.S. citizens for airman certificates and may issue certificates only to U.S. citizens. That amendment carried forward the policy of the FAA not to issue certificates to foreign nationals outside the U.S., and did not consider whether this policy was still appropriate.

The **FAA/JAA** harmonization effort over the past several years has identified this section as one of the obstructions to the harmonization efforts.

As noted in the general discussion above, the FAA has determined that the original concerns behind promulgating this section are no longer applicable. The FAA has put in place the appropriate resources to handle FAA certification services outside the United States, and the agency is no longer concerned about creating a disincentive for foreign

airman certification programs. Accordingly, the FAA is removing this section in its entirety and will be reserving this section for future needs.

#### **Part 67 Medical Standards and Certification**

##### *Section 67.5 Certification of foreign airmen.*

This section provides that a person who is neither a citizen of the U.S., nor a resident alien of the U.S., may not be issued an FAA medical certificate outside the U.S. unless the Administrator finds that the certificate is needed for the operation of a U.S.-registered aircraft.

This section was established at the same time as 14 CFR section 61.2, discussed above, in 1982 (47 FR 35690). As stated above, that rule was adopted in response to administrative concerns and to encourage foreign governments in the development of competent, indigenous airman certification programs. As these concerns are no longer applicable, and to encourage harmonization with our European neighbors where possible, the FAA is removing airman licensing requirements that are not safety driven. As a result, the FAA is removing and reserving this section in its entirety.

#### **Part 141 Pilot Schools**

##### *Section 141.15 Location of facilities.*

This section provides that FAA-certificated pilot schools or provisional pilot schools may not have a base or

facility located outside of the U.S. unless the Administrator finds the location of that base or facility is needed for the training of students who are U.S. citizens.

This section was established as part of an overall revision to the standards for the certification of FAA-certificated pilot schools in 1974 (39 FR 20146; June 6, 1974). In the preamble to that rule, the FAA stated that the restriction on the location of FAA-certificated pilot schools outside the U.S. reflected a long-standing FAA policy that merely was being stated in the regulation. The FAA also stated that "the purpose of certificated pilot schools is to provide pilot training for citizens of the U.S."

As previously discussed, this long-standing FAA policy restricting the training and certification of foreign nationals outside of the U.S. was based mostly on administrative concerns that are no longer applicable. In addition, as FAA-certificated pilot schools have been, and currently are, providing training to a significant number of foreign nationals within the U.S., the purpose of FAA-certificated pilot schools has expanded to train both U.S. citizens and foreign nationals. For many FAA-certificated pilot schools the training of foreign students provides a major source of income.

The JAA and the ECAC have determined that this section is not only a roadblock to harmonization efforts but has encouraged them to place similar geographic restrictions in the JAR FCL. As discussed earlier in the background section of this preamble, if the JAA maintains the restrictive language in the JAR FCL, foreign nationals of JAA member states will no longer seek training from FAA-certificated schools as that training would no longer be recognized by the JAA. Because the FAA has determined that this geographic limitation is no longer necessary and is an obstruction to harmonization as indicated by the JAA and the ECAC, the FAA is removing and reserving this section in its entirety.

#### **Part 142 Training Centers**

##### **Section 142.15 *Facilities.***

This section primarily addresses the physical characteristics of the facilities that a training center is required to provide. The last paragraph of this section (14 CFR section 142.15(e)), however, provides that a training center certificate may be issued to an applicant having a business office or training center located outside of the U.S. This permissive language is unnecessary since without this provision, it would be clear that there are no geographic restrictions in part 142 for FAA-certificated

training centers. The FAA is removing it to avoid any possible confusion.

Section 142.17 *Satellite training centers.*

This section provides the requirements that must be met for a training center to conduct training at a satellite training center located in the U.S. This section was limited to satellite training centers located within the United States because the FAA provided special rules for training centers located outside the United States under 14 CFR section 142.19.

As discussed below, the FAA is removing section 142.19 in its entirety. As there will no longer be special rules for FAA-certificated training centers located outside of the United States, the FAA is removing the limitation in this section that references only satellite training centers located within the United States. FAA-certificated training centers, whether located within or outside of the United States, that want to operate satellite training centers must meet the requirements under this section.

Section 142.19 *Foreign training centers: Special rules.*

This section currently provides that a training center located outside of the U.S. is subject to special rules that limit what training they can provide to foreign students. As already discussed above, an FAA-certificated training center located outside of the United States may

only prepare and recommend foreign applicants, whom already hold FAA certificates, for additional authorizations, endorsements, and ratings. An FAA-certificated training center located outside of the U.S. may prepare and recommend U.S. applicants, whether they already hold an FAA certificate or not, for pilot certificates, ratings, authorizations, and endorsements.

The FAA placed this restrictive language into this section for the same reason as that for section 61.2. As discussed above, section 61.2 was established in response to administrative and potential "over-dominance" concerns that are no longer applicable. Section 142.19 was identified as a possible obstruction to harmonization. For the same reason the FAA is removing section 61.2, the FAA is removing and reserving this section in its entirety.

#### **Good Cause for Immediate Adoption**

Sections 553(b)(3)(B) and 553(d)(3) of the Administrative Procedures Act (APA) (5 U.S.C. Sections 553(b)(3)(B) and 553(d)(3)) authorize agencies to dispense with certain notice procedures for rules when they find "good cause" to do so. Under section 553(b)(3) (B), the requirements of notice and opportunity for comment do not apply when the agency for good cause finds that those procedures are "impracticable, unnecessary, or contrary to the public interest." Section 553(d)(3) allows an agency,

upon finding good cause, to make a rule effective immediately, thereby avoiding the 30-day delayed effective date requirement in section 553.

The FAA finds that notice and public comment to this final rule are impracticable, unnecessary, and contrary to the public interest. The provisions in this final rule remove restrictive language affecting the licensing and training of foreign pilots outside of the U.S. The removal of the restrictive language will not adversely affect the licensing and training of U.S. pilots either within or outside of the U.S. In addition, as discussed above, the removal of the restrictive language will not have a safety impact, because the language was adopted to meet administrative concerns that are no longer applicable. As a result, the FAA has determined that notice and public comment are unnecessary because the FAA believes that the public will not be interested in this rulemaking.

The FAA has determined that there is a need to remove the restrictive language immediately, to provide an inducement for the JAA to consider removing its restrictions on licensing and training. Without this reciprocal JAA action, there could be economic losses to FAA-certificated pilot schools and training centers that seek to continue to train foreign students from the JAA member states, both inside and outside of the U.S. As discussed earlier, the



JAR FCL restrictive language will not allow an individual to convert an FAA pilot license, absent an arrangement between the JAA and the FAA, or to receive credit for flight training unless it is received from an JAA-approved FTO or TRTO. Currently, there is no arrangement between the FAA and the JAA for conversion of certificates and FAA-certificated pilot schools and training centers do not meet the requirements for JAA approval.

The JAA has indicated that they may remove the JAR FCL restrictive language if the FAA removes the restrictive language in the FAA regulations. As discussed earlier, the JAA will be making final decisions regarding any amendments to the language of the JAR FCL in the very near future. Therefore while notice and comment on this amendment are unnecessary, they are also impracticable.

#### **Regulatory Evaluation**

Executive Order 12866, "Regulatory Planning and Review," dated September 30, 1993, directs the Federal agencies to promulgate new regulations or modify existing regulations only if benefits to society for each regulatory change outweigh potential costs. The order also requires the preparation of an economic analysis of all "significant regulatory actions" except those responding to emergency situations or other narrowly defined exigencies.

The FAA has determined that this final rule is not significant under Executive Order 12866 or the Regulatory Policies and Procedures of the Department of Transportation (DOT) (44 FR 11034; February 26, 1979). The Regulatory Policies and Procedures of the DOT require, for non-significant rulemakings, the preparation of a regulatory evaluation that analyzes the economic consequences of the regulatory action. This section contains the full regulatory evaluation prepared by the FAA that provides information on the economic consequences of this regulatory action. In addition to the regulatory evaluation, this section also contains a regulatory flexibility determination required by the 1980 Regulatory Flexibility Act (5 U.S.C. 601 et seq.) and an international trade impact assessment. Accordingly, the FAA makes the following economic evaluation of this final rule.

This final rule merely removes language from the Federal Aviation Regulations that restricts the licensing of foreign persons outside of the U.S. and that restricts the operation of FAA-certificated pilot schools and training centers that are located outside of the U.S. The restrictive language was originally placed in the regulations because of administrative concerns that are no longer applicable. The restrictive language was identified during harmonization efforts currently underway between the

FAA and the JAA as an obstruction to harmonization and as potentially detrimental to FAA-certificated pilot schools and training centers that seek to train students from the JAA member states. As part of the FAA's commitment to reduce restrictions that are not safety driven and to further harmonize our regulations with our European neighbors, the FAA is removing the above restrictive language.

#### **Cost-benefit Analysis**

This final rule does not change the training or certification requirements for obtaining FAA certificates, it only removes geographic limitations on where the training and certification of foreign nationals may be given. This final rule does not affect the training and certification of U.S. citizens either within or outside of the United States. As a result, this final rule does not, in economic terms, alter the process of training and certification for pilots, flight instructors, and ground instructors. Accordingly, the FAA has determined that there are no economic costs associated with this final rule.

An expected benefit of the proposed rule is continuation of existing international trade with respect to the provision of pilot training by U.S. companies. As discussed in the background section of this preamble, the FAA is concerned about the JAR FCL language that would not

allow for the crediting of training time received from unapproved FTOs or TRTOs, namely FAA-certificated pilot schools or training centers. FAA-certificated pilot schools and training centers currently provide training to a significant number of individuals from JAA member states. If the JAR FCL goes into effect in July 1999, significant economic hardship may be endured by many FAA-certificated pilot schools and training centers as students from JAA member states would no longer seek training from them. Further, foreign students that come to the U.S. for flight training provide indirect benefits; they inject money above and beyond tuition costs into the U.S. economy. The FAA is recommending to the JAA that they remove the restrictive language from the JAR FCL. To support this, the FAA must show good faith by removing licensing and training restrictions in the FAA regulations that are not safety driven. Therefore, the FAA has determined that the failure to implement this final rule will result indirectly in economic losses to FAA-certificated pilot schools and training centers and the U.S. economy.

#### **Regulatory Flexibility Determination**

The Regulatory Flexibility Act of 1980 establishes "as a principle of regulatory issuance that agencies shall endeavor, consistent with the objective of the rule and of applicable statutes, to fit regulatory and informational

requirements to the scale of the business, organizations, and governmental jurisdictions subject to regulation." To achieve that principle, the Act requires agencies to solicit and consider flexible regulatory proposals and to explain the rationale for their actions. The Act covers a wide-range of small entities, including small businesses, not-for-profit organizations and small government jurisdictions.

Agencies must perform a review to determine whether a proposed or final rule will have a significant economic impact on a substantial number of small entities. If the determination is that it will, the agency must prepare a regulatory flexibility analysis (RFA) as described in the Act.

However, if an agency determines that a proposed or final rule is not expected to have a significant economic impact on a substantial number of small entities, section 605(b) of the 1980 Act provides that the head of the agency may so certify and an RFA is not required. The certification must include a statement providing the factual basis for this determination, and the reasoning should be clear.

The FAA conducted the required review of this final rule and determined that it will not have a significant economic impact, positive or negative, on a substantial number of small entities. This final rule, while it does

effect FAA-certificated pilot schools and training centers, does not impose any cost on them. This final rule merely removes geographic limitations on FAA-certificated pilot schools and training centers for the training and certification of foreign nationals outside of the United States. Accordingly, pursuant to the Regulatory Flexibility Act, 5 U.S.C. 605(b), the FAA certifies that this final rule will not have a significant impact on a substantial number of small entities. The FAA solicits comments from the public regarding this determination.

#### **International Trade Impact Analysis**

The Office of Management and Budget (OMB) requires Federal agencies to determine whether any rule or regulation will have an impact on international trade. The FAA has determined that this final rule will affect the operations of businesses involved in the sale of aviation services, specifically, FAA-certificated pilot schools and training centers. It effects FAA-certificated pilot schools and training centers by removing restrictive language that placed geographic limitations on where they could be located and on what training and certification they could provide to foreign nationals outside of the U.S. The FAA has determined that this final rule promotes international trade. While the FAA believes that this final rule will promote international trade, the more tangible benefit of

this final rule will be the enhancement of harmonization efforts currently underway between the FAA and the JAA.

#### **Federalism Implications**

This final rule will not have a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities -among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule will not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

#### **Paperwork Reduction Act**

In accordance with the Paperwork Reduction Act of 1995 (Pub. L. 104-13 (May 22, 1995)), there are no requirements for information collection associated with this final rule.

#### **Unfunded Mandates Reform Act Assessment**

In accordance with the Unfunded Mandates Reform Act of 1995 (Pub. L. 104-4 (March 22, 1995)), there are no Federal mandates in this final rule that meet the required cost threshold.

#### **List of Subjects**

14 CFR Part 61

Airmen, Certification, Flight Instructors, Foreign airmen, Ground Instructors, Pilots, Students, Training.

14 CFR Part 67

Airmen, Certification, Foreign airmen, Medical certification.

14 CFR Part 141

Airmen, Certification, Educational Facilities, Flight Instructors, Foreign students, Ground Instructors, Pilots, Schools, Students, Training.

14 CFR Part 142

Airmen, Certification, Educational Facilities, Foreign students, Instructors, Pilots, Schools, Students, Training.

**The Amendments**

In consideration of the foregoing the Federal Aviation Administration amends Chapter I of Title 14 Code of Federal Regulations as follows:

**PART 61—CERTIFICATION: PILOTS, FLIGHT INSTRUCTORS, AND  
GROUND INSTRUCTORS**

1. The authority citation for part 61 continues to read as follows:

**Authority:** 49 U.S.C. 106(g), 40113, 44701-44703, 44709-44711, 45102-45103, 45301-45302.

**§61.2 [Removed]**

2. Remove §61.2.

**PART 67—MEDICAL STANDARDS AND CERTIFICATION**

3. The authority citation for part 67 continues to read as follows:



**Authority:** 49 U.S.C. 106(g), 40113, 44701-44703, 44707, 44709-44711, 45102-45103, 45301-45303.

567.5 [Removed]

4. Remove §67.5.

#### **PART 141-PILOT SCHOOLS**

5. The authority citation for part 141 continues to read as follows:

**Authority:** 49 U.S.C. 106(g), 40113, 44701-44703, 44707, 44709, 44711, 45102-45103, 45301-45302.

5141.15 [Removed]

6. Remove §141.15.

#### **PART 142-TRAINING CENTERS**

7. The authority citation for part 142 continues to read as follows:

**Authority:** 49 U.S.C. 106(g), 40113, 40119, 44101, 44701-44703, 44705, 44707, 44709-44711, 45102-45103, 45301-45302.

**§142.15 [Amended]**

8. In §142.15, remove paragraph (e).

9. Section 142.17 is amended by revising paragraph (a) introducing text to read as follows:

**§ 142.17 Satellite training centers.**

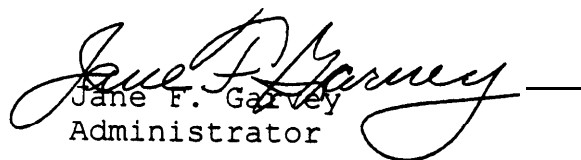
(a) The holder of a training center certificate may conduct training in accordance with an approved training program at a satellite training center if-

\* \* \* \* \*

**\$142.19 [Removed]**

10. Remove \$142.19.

Issued in Washington; DC, on **SEP 30 1998**

  
Jane F. Garvey  
Administrator